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## University of Bath

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# European Organizations and Minority Rights in Europe: On Transforming the Securitization Dynamic

## Introduction

Europe has done more than any other continent in protecting the rights of minorities. For some, this is not surprising. In living memory, Europe has witnessed two devastating wars which killed a total of 50 million people that were both the result of ethno-nationalist tendencies. Furthermore, following the end of the Cold War, Europe witnessed several occurrences of major ethnic conflict in the former Yugoslavia (Croatia, Bosnia-Herzegovina, and Kosovo) and Soviet Union (Moldova, Azerbaijan, and Georgia). The result left many dead, a region wondering how this could have happened (again), and attempts to prevent such conflict from happening again. At the same time, Europe is being transformed. The European Union (EU) enlarged to the East (and South) in 2004 and 2007 taking in parts of the old Soviet bloc and even part of the former Soviet Union (Estonia, Latvia and Lithuania). During this process of enlargement, minority rights protection was put forward by the three European organizations (European Union, Organization for Security and Cooperation in Europe and the Council of Europe) as a means to secure regional security, democratization and the future of European integration. In other words, the focus on minorities in the post-Cold War period has brought forward a complex network of international organizations, states and minorities to complete what we refer to as the 'European minority rights regime'.

However, this raises a serious question of how effective this regime has been in Central and Eastern Europe. Exploring this question of regime effectiveness in more detail elsewhere (Galbreath and McEvoy 2012), our primary aim here is to examine the aims and outcomes of European organizations' focus on minority rights in Europe. With this in mind, we identify three empirical observations that inform our argument. The first is that by and large acceding states sought to do as little possible to meet the requirements of the European minority rights regime. This is to say that states, who were repositioning society following the collapse of socialist governments had little intention to alter what for most were state-building programmes and again for others nation-building programmes. Second, European organizations were limited in their norms and implementation mechanisms. This limitation was due to the state

centric nature of European organisations specifically and international relations in general. Arguably the least state-centric organization, the EU, was in fact the weakest in terms of voice and mechanisms in which to condition minority rights in Europe. Furthermore, the European minority rights regime is predicated on an individual notion of rights, which has been constructed to mean *not group rights*. Finally, and following from the first two points, European organizations have opted for a *protection* logic rather than an *empowering* logic when dealing with minorities.

These empirical findings lead us to argue three points. We argue that the European minority rights regime;

- a) is not asking how can it improve the role of minorities in Europe but instead is asking how it can reduce the change of regional instability; promotes minority protection to reduce regional instability, rather than to improve minority rights *per se*
- b) tries to ‘satisfice’ rather than maximise the role of minorities in European political communities; and
- c) pushes protection over empowerment as a solution to the ‘minorities’ problem in Europe.

As a result, we argue that this very character of the European minority rights regime reduces its ability to promote the desecuritization of societal relations in multicultural Europe. As a result, European organisations have not only been unable to desecuritize majority-minority relations but have even contributed to the securitised construction of minorities contrary to the international organizations’ claims and arguable goals.

In this article, we look at the securitization literature and the claim that societal security is ‘impossible’ to desecuritize. We examine to what degree the European minority rights regime has led to a desecuritization and asecuritization of the issues around national minorities in Europe. We then demonstrate, via an analysis of the three organizations, how their ability to transform interethnic relations is shaped by three factors: narratives, norms and ‘nannies’. By narratives, we mean those underlying logics of intervention. By norms, we mean the institutional conceptualisations of minority rights. Finally, by ‘nannies’ we reflect on the mechanisms of intervention and their approaches to desecuritization.

## **The Logics of Securitization and Protection**

We lead with a securitization approach for two reasons. The first is that as the Cold War began to falter, ethnic identities became more salient and in many cases securitized domestically (see Tilly 1991; Lake and Rothchild 1996; Tishkov 1997). Put differently, minorities were considered 'asecuritised', or outside what Barry Buzan, Ole Waever and Jaap de Wilde, refer to as 'emergency politics' (1998). This fits with how Jennifer Jackson-Preece (1997) describes the rise and fall of minority rights in international relations. In particular, she argues that minority rights will become more salient as borders change and this fits with the history of the former Soviet Union and Yugoslavia. Second, European organizations used the enlargement process to condition minority rights first and foremost as a way to ensure regional stability (Malloy 2005). Thus, the conditionality logic was to desecuritize what had been securitized with the collapse of the Cold War (and more importantly its antecedents). In sum, we see a process of societal securitization at the domestic level and an attempt at desecuritization at the regional level. Our argument is that despite the goals of European organisations, they cannot provide mechanisms for desecuritization when their very approach of protection is static rather than dynamic understanding of the state-minority relationship. To substantiate this claim, we need to delve further into the securitization literature.

European organizations see themselves as having an important role to play in reducing the likelihood of conflict between ethnic groups, or in other words desecuritizing minority rights. In fact, all of the inter-governmental organizations of Europe have institutionalised ways of reducing the chance of conflict since the end of the Cold War. Located in the securitization literature, some authors attempt to conceptualise the securitization phenomenon in relation to minorities, building on Jeff Huysmans (2000) work on the EU and migrants. In particular, Paul Roe examines the conditions for desecuritization at the domestic level, assuming that a national reconciliation in order for a peace 'to stick'. He argues that considering the different sectors of security as established by Buzan, Wæver and de Wilde, ethnic or religious insecurity (societal security) causes the most problem for the possibility of desecuritization. This problem lies within the very nature of inter-communal security in that it is based on the security of a group rather than an individual. 'In other words, over and above all other principles, it is the maintenance of group identity that

underpins the provision of minority rights' (Roe 2004: 288). The position of a minority is well illustrated by Roe as he contrasts minorities with migrants:

The potential fluidity of the individual migrant's identity provides a possible escape route from the constraints of the us–them dichotomy. In the context of minority rights, however, the necessity on the part of the minority (and indeed also the majority) for group distinctiveness necessarily blocks this same way out: the language of the individual is subordinated to the language of the collective. In other words, how is it possible to securitize through identity deconstruction when both minorities and majorities often strive for the reification of distinct collectivities (2004: 290)?

Based on this, Roe's finding suggests that it is 'impossible' to desecuritize minority rights. However, Roe has not taken into consideration the impact of enlargement and conditionality on societal security in Central and Eastern Europe, although his findings in no way preclude the role of other actors outside the domestic context. We seek to elaborate more fully on this impact.

If securitization is moving an issue from 'normal politics' to 'emergency politics', then desecuritization should be moving an issue in the opposite direction. In the literature on desecuritization, the focus is on domestic attempts to desecuritize an issue. Jef Huysmans establishes three such processes that he refers to as the 'objectivist strategy', 'constructive strategy', and the 'deconstructivist strategy' (Huysmans 1995). First, the 'objectivist strategy' set out to set the record straight assuming that there is an objective account of whether the issue is a threat. Second, the 'constructive strategy' avoids handling the situation or doing something about the securitization of an issue and instead seeks to understand how the issue has come to be securitised. In this way, 'handlers' are more aware of how to go about stepping back from the 'limit' (see Huysmans 1998). Finally, the 'deconstructivist strategy' attempts to take part in the image of the issue as a threat. In our case, this would mean situating a group identity within a larger multicultural context or situating individual identities with a more complex conglomerate context (e.g ethnic-local-nation-regional).

The strategies are important because they offer a way towards reversing or eliminating the securitization of societal identities. Roe's critique though is that

because often ethnic conflict is socially all encompassing, it leaves nothing else but a zero-sum result: 'either with us or against us'. Any attempt to reduce the ethnic capital of one set of identities naturally benefits the other. The problem then becomes the zero-sum game between or among groups. How do we transform a zero-sum game that pits two groups one another without escape to a positive-sum game, where groups see mutual progress through mutual change? This is easier said than done. Domestically, what room is there for alternative social narratives to arise when ethnic relations have been securitized? The answer is often unsatisfactory and unsustainable, such as conflict fatigue after years of inter-communal violence. The answer may lie beyond the state.

Matti Jutila argues that through a 'reconstructivist' approach, the 'desecuritization of minority rights is always logically possible, though in some cases it might be practically impossible' (2006, 169). Jutila argues that his 'reconstructivist' strategy is more akin to Huysmans's constructivist strategy, where here we have argued that it has to be coupled with a process of 'deconstruction'. The process involves shifting to 'one of the components that makes securitization possible: exclusive narratives of identities and political communities' (2006, 179). Jutila stresses what we have stressed here and elsewhere, that the state-minority dichotomy too easily promotes identities that cannot coexist in the same political community (e.g. can one be both Hungarian and Slovakian?). And for a long period, no solution would have seemed appropriate. The age of religious conflict in Europe for instance was a time for drawing boundaries between denominational states (France goes to Catholicism while Britain goes to Protestantism) while ethnic conflict produced the large-scale population movements of the twentieth century, the largest the world had ever seen. We are no longer in a world where this is deemed acceptable. The minority rights discourse must set alongside a Westphalian states'-rights discourse. Herein lies the challenge of the European minority right regime.

If a European narrative can be informed by multiculturalist principles (i.e. coexisting identities in the same political community), then we should expect a possibility where European organisations can promote the processes of deconstruction and reconstruction. In many cases, national minorities are Europeans themselves and thus fit well within the image of a larger European political community. The closer we get to the border of Europe, even subjectively defined, the greater problem there is in incorporating minority groups and this European political community. Such a

situation faces European countries with large North African and Asian minority communities.

The point is that a reasonable argument can be made to suggest that because domestic politics cannot escape the ‘us-them’ dichotomy, a regional organization may provide an alternative narrative that moves it. Paul Roe (2004) argues that minority rights cannot be desecuritized because reaffirming the rights of one group automatically threatens the other group. Thus, at the domestic level or at least between two opposing ethnic or linguistic groups, it is impossible to desecuritize what has already been securitised without a change in the way that society is structured. Yet any attempt to restructure society will be seen as a threat to either group’s existence. Added to this is that minority rights are predicated on preserving the identity of the minority group. In this way, European organisations may be able to influence the structure of society in a way that preserves group identities by incorporating them within a larger political framework.

The impact of EU enlargement has been covered comprehensively elsewhere. Those who talk to the power of enlargement and conditionality argue that through the material and ideational benefits of enlargement, acceding states were able to change their policies in relation to their minorities to decrease the likelihood of ethnic conflict (Radaelli 1999; Sjursen 2002; Schimmelfennig 2002; Schimmelfennig and Sedelmeier 2004; Schimmelfennig, Engert, and Knobel 2005). This ‘Europeanization’ argument suggests that either through material conditionality, rhetorical argumentation, or socialization, things have improved for the better, or at least that policy change has occurred. Although policies have arguably improved in some states, it is the nature and to the degree of positive change in which we are interested. Others argue that enlargement had little to no effect on minority rights (Hughes and Gwendolyn Sasse 2003; Hughes, Gwendolyn Sasse, and Gordon 2004; Gwendolyn Sasse 2008). This argument might suggest that a) European organizations were interested in minorities for show and b) acceding-states knew it. Still others have argued that European integration has had the potential to either alleviate or enhance tension over minorities (see Galbreath and McEvoy 2010).

Nevertheless, we may assume that European organizations seek to alter the securitized nature of state-minority relations, which fits between the two integration arguments and as suggested fits our findings elsewhere. Second, we can rely on Huysmans’s ‘de-constructivist’ approach to suggest that if the domestic setting cannot

escape the ‘us-them’ dichotomy, then the regional integration process should promote a deconstruction of this stand-off and ‘reconstruct’ an alternative domestic-cum-regional narrative. This ‘Europeanization’ logic suggests that the EU would be the best placed organisation to provide a solution. Along these lines, we expect that of the security, democracy and integration approaches, the latter should be the most powerful in its ‘reconstruction’ potential.

From this discussion, we can devise a conceptual framework that can evaluate the desecuritization attempts made by Europe’s international organisations. We seek to explore how Jutila’s ‘reconstructivist’ approach to societal security can be operationalized by the OSCE, Council of Europe, and EU, keeping in mind the limits to their approaches to minority rights stated in the introduction. This review of the desecuritisation literature suggests that those organizations who seek to address the underlying societal tensions and the ethnic or national identities that underpin them will be most successful in reducing the possibilities of ‘emergency politics’. We also suggest that those international actors who can provide a ‘reconstructed’ communal narrative without threatening the existential nature of societal identities will prove to be more effective at reducing tensions. In other words, we seek to map Huysman’s ‘constructivist’ approach and Jutila’s ‘reconstructivist’ on to our three institutional case studies.

Such an approach requires qualifications and clarifications. The first is that we are not claiming that organisation’s themselves have internalised these approaches. In fact, the reality is quite the unrelated given that attention to minorities has often been given through the alternative narratives of regional stability, liberalisation and integration. Nevertheless, we make the central argument that international organisations can play an important role in the desecuritization of societal tensions and those who are best able to emphasise ‘empowerment’ over ‘protection’ will be able to go the furthest in terms of ‘reconstructing’ societal relations. In this way, the three identified narratives tell us something about the projects to which these organisations are committed vis-à-vis national minorities. All of this considered, we operationalize this approach in three ways:

1. Narrative: to what extent does a regional narrative influence a party’s approach to desecuritization?
2. Norms: to what extent do the norms of the European minority rights regime provide for a transformative path to desecuritization?



3. 'Nannies': to what extent does institutionalised approaches to minorities balance between 'protection' and 'empowerment'?

The following sections highlight these three factors of desecuritization by international organisations.

## **Organization for Security and Cooperation in Europe (OSCE)**

### *Narrative*

The OSCE is the one European organization that has attempted to deal with minority rights from an explicit security position (see Cronin 2002; Galbreath 2007: 50-2). As the collapse of the Soviet bloc continued, the CSCE began to reconsider the possible threats to security in the region. In 1990 both the Copenhagen Document and the Charter for Paris addressed the importance for the treatment of national minorities. Importantly, the latter further developed the 'human dimension' first expressed in the 1975 Final Act. The following year the 1991 Geneva Meeting of Experts on National Minorities concentrated the OSCE's efforts to tie security to democratization in the region. By this time, instability in the former Yugoslavia was causing serious anxieties in Europe. Section II of the Meeting of Experts states that

[the participating states] emphasize that human rights and fundamental freedoms are the basis for the protection and promotion of rights of persons belonging to *national minorities*. They further recognize that questions relating to national minorities can only be satisfactorily resolved in a democratic political framework based on the rule of law, with a functioning independent judiciary. This framework guarantees full respect for human rights and fundamental freedoms, equal rights and status for all citizens, including persons belonging to national minorities, the free expression of all their legitimate interests and aspirations, political pluralism, social tolerance and the implementation of legal rules that place effective restraints on the abuse of governmental power.<sup>1</sup>

This statement suggests that the OSCE saw the primary source of violation coming, not from simply another ethnic group, but rather from the state itself. The most

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<sup>1</sup> <http://www.osce.org/hcnm/14588>. Emphasis added (Date Accessed: 13 May 2011).

important consequence of the Geneva Meeting of Experts on National Minorities is the emphasis on creating instruments which can investigate, negotiate and recommend in cases where the rights of national minorities are perhaps under strain. In this case, we see the OSCE developing tools to desecuritize societal security.

From this emphasis, the 1992 Helsinki Document went on to create the OSCE High Commissioner on National Minorities (High Commissioner or HCNM). The 1996 Lisbon Document went even further in specifying the role of the office. The High Commissioner is the most advanced instrument for dealing with national minority issues (Kemp 2001; Zellner 1999). The HCNM has several roles based on *observation, negotiation and recommendation*. Combined with the OSCE field missions, the High Commissioner is an instrument for investigating potential hotspots before they become flash points. Second, the High Commissioner's work is also about bringing together parties to a common forum in which to discuss their grievances, as has happened in Romania in relation to the Hungarian minority. Finally, the HCNM offers recommendations based on international and European standards of minority rights and democracy, such as the Council of Europe's 1950 European Convention and Framework Convention on National Minorities. This approach to minorities indicates that the OSCE is not only about desecuritizing minorities, but is also aimed at 'asecuritizing' minorities. In other words, the OSCE's remit includes helping to avoid a move from 'normal' to 'emergency' politics.

### *Norms*

The OSCE also goes further than an explicit security agenda. While it has often been documented that there is no definition of national minorities in international or even European law, High Commissioner Max van der Stoep did go some way in trying to define the standards by which the 'protection' of national minorities should be judged. The High Commissioner sponsored several meetings of minority rights experts from the Foundation on Inter-Ethnic Relations in the 1990s to formulate specific criteria. Three such documents came out of the OSCE sponsored meetings. The first was the 1996 *Hague Recommendations Regarding the Education Rights of National Minorities*. The Hague Recommendations stress the need for mutual bilingualism in society. In theory, bilingualism should encourage empathy and reciprocity which in turn would lead to confidence-building among the groups. Bilingualism would also be a safe way of precluding forced or unforced assimilation.

Second, the 1998 *Oslo Recommendations Regarding the Linguistic Rights of National Minorities* go beyond educational needs to focus on the role of language in the public sphere. Much of what is in the Oslo Recommendations can also be found in the Council of Europe's FCNM, including the use of minority languages in areas where that group may predominate. The final document is the 1999 *Lund Recommendations on the Effective Participation of National Minorities in Public Life*. The Lund Recommendations go beyond protection, for which Jackson Preece (1997: 345-346) criticised the Helsinki Final Act, to the facilitation of improved state-minority relations. The High Commissioner and the Foundation for Inter-Ethnic Relations reformulated an undefined concept and rather vague notion of protection with these three documents. The Hague Recommendations are particularly important because they speak of the rights of children. The Oslo Recommendations are important as far they concern a minority group's position within their own community. The Lund Recommendations go beyond stating the parameters of protection to encouraging the facilitation of minority views in political discourse. Finally, the 2008 Bolzano/Bozen Recommendations on National Minorities and Inter-State Relations look at the impact of national minorities on host-state – kin-state relations. The latter recommendations arguably illustrate a focus on the security agenda for the OSCE as well as the 'core' business of the organization in promoting regional stability.<sup>2</sup>

### *Nannies*

How does the OSCE seek to desecuritize societal relations? Three characteristics are important in describing the OSCE and its relations with national minorities. The first and foremost is the fact that the HCNM is devoted solely to areas of potential conflicts. For this reason, van der Stoep and those who have held his office since have looked into societal relations in places like Slovakia, Estonia, Latvia and the Crimea, but have largely ignored Bulgaria, Poland, Lithuania, and Moldova not to mention Turkey or even the Romani throughout Europe. As HCNM, Rolf Ekeus stressed the fact that the OSCE was a security organisation, not a rights organization, despite the fact that the Helsinki Final Act and the CSCE Meetings on the Human Dimension strictly connect security and rights.<sup>3</sup>

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<sup>2</sup> For the six OSCE HCNM thematic recommendations see <http://www.osce.org/hcnm/66209> (accessed 11 May 2011)

<sup>3</sup> Interview with the author, 31 March 2006, The Hague.

As an 'early warning' mechanism, the HCNM was designed to prevent ethnic conflict but its ability to be a transformative institution is simply limited by its very mandate. The HCNM cannot even bring itself to talk about 'protection' and is quick to point out that its office is 'on' minorities rather than 'for' them. In other words, the OSCE most often acts as a 'deconstructivist' actor in societal disputes. For instance, during the 'Alien's Crisis' in Estonia in 1993, van der Stoep was quick to visit Estonia, talking to all sides, and 'name and shame' but the government and the minority community but the overall impact on Estonian-Russian-speaker relations was negligible, to be generous (see Galbreath 2005: 243-244). Here, we would even go further and suggest that the HCNM role in societal security often appears to maintain the status-quo state vs. minority logic of the European minority rights regime. The practical result of this approach is the concentration on state integration programmes which take no account of the zero-sum context of the interethnic relations in 'emergency politics'. In sum, the OSCE is unable to transform this zero-sum context. Rather it attempts to deconstruct societal security and the results reaffirm Roe's argument of intransigence.

Why doesn't the OSCE do more to solve societal insecurities? The answer is three-fold. Firstly, the HCNM is working to its mandate as an early warning and conflict prevention mechanism. The fact that the office under several High Commissioners has been able to move the normative base of minority rights protection forward through its recommendations and guidelines says something to how the HCNM tends to rub at the edges of its mandate. Secondly, the OSCE and therefore the HCNM simply does not have the political power of persuasion to run counter to the guiding norms of state-centred politics. The fact that the HCNM exists at all as the only political institution aimed at addressing national minorities in the world tells us about opportunities and constraints on such an institution. Finally, the OSCE as a whole is not a transformative institution but rather is a 'confidence and security building' institution and it does this through maintaining the status quo among states and peoples. For these reasons, normative changes to how societal

## **Council of Europe**

### *Narrative*

As we set out in the beginning, minority rights have been set within the context of three narratives: security, democracy, and regional integration. Having explored security as a narrative and demonstrated its complicated relationship with minority rights, we turn our attention to democracy. In terms of democracy, we refer to two sub narratives that are rights-based arguments for minority rights and the role of institutions in protecting minority rights. The first argument set out that minority rights is an intricate part of a broader human rights platform. Thus, individuals should have the right to identify with different ethno-cultural groups and practice as part of these groups. In practical terms, this means speaking one's own language, having children learn their own language, and enjoying cultural rights in both the private and public spheres. - Such a right is set out in the UN's Article 27 of the International Covenant on Civil and Political Rights, which states that

‘In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practise their own religion, or to use their own language.’

Yet the tension between group and individual rights as discussed previously makes the focus on minority rights more problematic. As Kymlicka (1995: 35) points out, minority groups are likely to make two types of claims. Internal claims police minority group boundaries by reinforcing belonging within the group. External claims attempt to protect the minority group from the political and economic decisions taken by the majority. Minority groups in Central and Eastern Europe have a need to employ both claims. On one hand, states often employ state-building policies that attempt to redirect identification towards the state and seemingly away from minority identification. Minority groups are right to be sceptical of ‘integration’. On the other, states are likely to represent the interests of the majority throughout the decision making structures, which may not discriminate automatically, but have potential to do just that. At this juncture, the rights-based narrative intersects the institutional argument.

Democratic institutions have the ability to include minorities within the decision-making process, which would ensure minority groups the ability to protect their own identities within the larger political community. The role of democratic institutions in protecting minority rights has been well discussed in the literature (for an overview, see Bellamy 2000), but our question here pertains more to what role international organizations have in shaping democratic institutions as a means of protecting the rights of minorities. Kymlicka (2008, 3-4) highlights that international organizations shape domestic debates about minority rights in two ways. First, international organizations are often at the centre of the diffusion of political discourse relating to the management of minority rights. He argues that this diffusion is often a conversation between international organizations, non-governmental organizations (NGOs), and civil servants. Second, international organizations are involved in formulating minority rights provisions. Elsewhere, we have referred to this as ‘setting, implementing and expanding [minority rights] standards’ (Galbreath and McEvoy 2011).

### *Norms*

The Council of Europe has been an active promoter of democratic standards in general and minority rights specifically in the post-socialist world. Accordingly, the Council of Europe illustrates how the rights-based and institutional approaches to minority rights are connected. At times, the Council of Europe has collaborated with the OSCE as it did when a Council delegation attended the 1991 Geneva Meeting of Experts on National Minorities. The Council of Europe’s best efforts at furthering the call for the protection of national minorities has been the Framework Convention, the outcome of the Committee of Ministers *ad hoc* Committee for the Protection of National Minorities.<sup>4</sup> The 1995 document establishes a standard for national minority rights that have been replicated in the HCNM sponsored documents mentioned earlier. However, like many agreements on national minorities, the document does not go as far as to define the term. Indeed, as Wilson finds it is strange that the FCNM is ‘the only binding multilateral treaty on minority rights, which makes no attempt to define to whom it applies’ (2000: 10). Nevertheless, the document does go as far to

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<sup>4</sup> See <http://conventions.coe.int/Treaty/EN/Treaties/Html/157.htm> (Date accessed: 26 August 2005). Background to the FCNM can be found at [http://www.ecmi.de/doc/CoE\\_Project/intro.html](http://www.ecmi.de/doc/CoE_Project/intro.html) (Date accessed: 26 August 2005).

establish a set standard for minority protection in Europe. The FCNM is important because it specifically applies to a subset of the larger human rights discourse. Furthermore, the document goes further than international treaties on human rights which partly pertain to linguistic and/or religious minorities. In the Framework Convention, we see a focus on protection and facilitation. Article 4, subsection 1 focuses on protection alone:

The Parties undertake to guarantee persons belonging to national minorities the right of equality before the law and of equal protection of the law. In this respect, any discrimination based on belonging to a national minority shall be prohibited.

Article 5 addresses both protection and facilitation:

1. The Parties undertake to promote the condition necessary for persons belonging to national minorities to maintain and develop their culture, and to preserve the essential elements of their identity, namely their religion, language, traditions, and cultural heritage.
2. Without prejudice to measures taken in pursuance of their general integration policy, the Parties shall refrain from policies or practices aimed at assimilation of persons belonging to national minorities against their will and shall protect these persons from any action aimed at such assimilation.

Important for this study and our understanding of the European minority rights regime is that the FCNM further develops the ideas and norms associated with minority rights in Europe.

The acceptance of the Framework Convention has not been whole-hearted by any means either in Western or Central and Eastern Europe. Nevertheless, a considerable number of states have signed and ratified the FCNM. In fact, the acceptance of the Framework Convention was a condition for EU membership and was monitored in the European Commission's Regular Reports as mandated in *Agenda 2000*. It is important to note that France has neither signed nor ratified the Framework Convention. Furthermore, many of the states that have accepted the FCNM have also attached declarations to the treaty. Estonia and Latvia are cases in

point. In Estonia, the FCNM came into force on 1 February 1998. When ratified, the declaration that accompanied the FCNM listed those groups that were considered ‘national minorities’. The significantly large Russian-speaking community in Estonia was not listed, making a political point as to how the Estonian state saw this community in particular. Despite the leverage of the European Commission, Latvia signed but failed to ratify the FCNM before accession. The Latvian parliament delayed until June 2005 before promulgating the FCNM, although they too added a declaration listing who fell into the category of ‘national minority’ in Latvia. Once again, the Russian-speaking community was not listed (Galbreath and Muiznieks 2009). These examples tell us something about the significance of the Framework Convention in Europe. The French have repeatedly stated that there are no ‘national minorities’ in France and thus the document does not pertain to them. The examples of the Estonian and Latvian cases illustrate that on some level it is important for states to at least rhetorically accept the document, while at the same time give some indication of the limitations of the FCNM by refusing to list the largest minority community as a ‘national minority’. Nevertheless, the rhetorical action of ratifying the Framework Convention by the large majority of Council of Europe member-states highlights the need for states to show that they have accepted the European norms for minority rights.

### *Nannies*

The Council of Europe is undeniably a ‘rights-based’ organization and one could argue that its ability to transform societal relations should be better than that of the OSCE. Two issues matter for states and their minorities. The first is that the Council of Europe is a legal institution and its most relevant agreement in relation to national minorities is a legal treaty. Detractors aside, the FCNM places states in a considerable legal context that allows individuals to present a legal case to the European Court of Human Rights, or at least those states that have signed and ratified it. Secondly, the Secretariat of the Framework Convention, the treaty’s governing and implementation body, can reference its own legal and normative framework as being part of the wider process of democracy and human rights. In this way, we see that the Council of Europe approaches societal security through a ‘constructive’ strategy.

The FCNM for example attributes minority rights, or at least those of ‘national minorities’ which it fails to define, to the larger human rights legal framework. In this



way, the Council of Europe has constructed an alternative legal narrative of desecuritization. Yet, this approach too ascribes protection rather than empowerment in that the FCNM seeks to provide national minorities with equality under the state. And each state in turn is offered the ability to adapt these legal responsibilities to its own individual context, both in terms of institutions and minorities. By minorities, as we have seen, states have essentially designated which minorities they believe to be deserving of these rights of protection, which means that Russians in Estonia and Latvia do not qualify nor do Turks in Germany, despite the fact that these states are signatories to the FCNM. Finally, the Council of Europe's approach illustrates the tensions between individual and group rights. Protection is easy to afford the individual since in most cases the individual is not threatening. Furthermore, we could argue that seeking equality for the individual can also be seen as empowerment, but as a minority, where does empowerment lie in the context of 'emergency politics'? With the group.

In other words, the Council of Europe's ability to desecuritize societal relations is limited for the same reason as the OSCE. In essence, without transforming the zero-sum game of interethnic relations, we are unlikely to see significant changes. The same question can be said of the Council of Europe that we asked of the OSCE: why is it limited to this? The answer lies in the history of the Council of Europe as an organization that is meant to 'lock-in' democratic institutions and human rights, not transform them. Furthermore, the general logic of the European minority rights regime plays apart in that the Council of Europe is generally only able to ask, 'Are we doing enough for minorities?' rather than 'Are we doing what we should for minorities?' If the Council of Europe and its constructivist approach societal security is not able to transform interethnic relations, we should assume that the same cannot be assumed by the EU.

## **European Union**

### *Narrative*

To investigate our third narrative, we explore the place of minority rights within the debates on European integration. A significant amount of literature on the accession process focuses on rationalist and constructivist arguments for enlargement. Rationalists argue, to put it simply, that enlargement was seen as a way of stabilising a transitioning region for both economic and political reasons: more trade, less

migrants and overall greater stability. Constructivists contend that in fact the interests of the existing member-states did not represent a strong desire to enlarge. For example, Schimmelfennig (2001) argues that many of the existing member-states were in fact hostile to enlargement. He finds that generally states who were either not bordering the candidate countries or net-receivers of EU resources, or both, were against enlargement. The United Kingdom was an exception to this trend, being neither. This constructivist argument finds that proponents of enlargement used rhetorical actions to persuade reluctant states by portraying accession as 'Europe reunited'. Overall, we can see that there are elements of truth in both cases. Existing member-states did have an 'interest' in spreading market opportunities and political stability to the east. At the same time, countries such as France or Spain did require a persuasive rhetoric in order for them to at least not prevent enlargement. As Checkel (2001) shows, the difference between rationalist and constructivist arguments are not as great as once thought.

While the interests of the existing member-states were complex, the interests of the candidate countries were more straightforward. First, all of the new member-states would become net-receivers of EU resources and already the influx of funds from the TACIS and PHARE programmes had made a significant difference. In essence, the EU subsidised the political and economic transition in Central and Eastern Europe. The jury is still out on whether or not the EU, along with other major actors, have encouraged if not subsidised a social transition in the region. Second, the candidate countries in Central and Eastern Europe wanted to show that they were full members of the 'West' as well as modern Europe. Fifty years of Soviet hegemony had a political and social effect on the trajectories of post-socialist states. From a regional security point of view, we should expect that the post-socialist states would have chosen to band-wagon with the clear beneficiaries of the end of the Cold War (i.e. the 'West'), which is perhaps why we see such a strong overlap with EU and NATO enlargement.

Finally, in the words of Andrew Moravcsik (2000), we can see that Central and Eastern European states were keen to 'lock-in' policies and structures that were perceived to contribute to a stable, democratic future, similar to the way that Western European states had done following the Second World War.. No doubt some candidate countries were more keen to implement recommended political and economic conditions than others. This is particularly highlighted in the case of

national minority protection. For example, Hungary was not only quick to implement Western standards of minority protection, but also to develop them further. This was Hungary's own attempt to 'lock-in' policies to protect national minorities; not in Hungary itself, but rather in neighbouring states where there are Hungarian minorities (Tesser 2003; Williams 2002). The Hungarian government gambled that the pressure of reciprocity and Western influence would encourage its neighbours to follow-suit. Despite significant problems in Slovakia and Romania, protection for national minorities was eventually ensured. Other states, such as Estonia and Latvia, were not keen to implement further changes to domestic policies, with post-Soviet policies seeking to address the legacies of Soviet occupation. Milada Vachudova (2005) finds that other than Hungary, all of the candidate countries that were host to significant national minorities were reluctant to implement guarantees for national minority protection. She suggests that Central Europe can be seen in two groups based particularly on their policies towards national minorities with Hungary, Poland and the Czech Republic in one group and Slovakia, Romania and Bulgaria in the other. The fact that by and far all of the candidate countries have ensured a certain standard of national minority protections confirms the importance of the EU, OSCE and Council of Europe for affecting such policy changes.

### *Norms*

Existing literature on conditionality shows that the EU and in particular the European Commission has had the leverage to enforce commitments to international and European conventions for the protection of national minorities. In most cases, leverage was a product of offering the 'carrot' of membership. However, leverage also included the possibility for the 'stick' of delay (see Schimmelfennig et al. 2003, Kelley 2004) When it came to protecting minority rights in Central and Eastern Europe, the prospect for membership made a significant difference. For instance, changes in the minority rights legislation in Estonia, Latvia and Slovakia took place following the implementation of Agenda 2000 and the Regular Reports. For the European Commission, the annual Regular Reports were the principal instrument of communicating leverage on behalf of the EU. Pressure was heightened after 1997, with the formal beginning of the accession process (Tesser 2003). Likewise in Estonia and Latvia, pressure to change relatively conservative citizenship laws occurred in 1997 and 1998 respectively (Aasland 2002; Gelazis 2003). As can be seen in the

OSCE High Commissioner letters and reports from the Parliamentary Assembly of the Council of Europe, EU membership was used as a rhetorical argument for reform.

The EU's Copenhagen Criteria (1993) set the standard for potential new member states. As well as focusing on political and economic transition away from the socialist model, the criteria also focused on the status of national minorities by calling on the 'respect for and protection of minorities'.<sup>5</sup> However, the minority protection clause did not make it into the 1997 Amsterdam Treaty which would have made the statement part of the *acquis communautaire*. 'Thus, the EU left out a fundamental legal basis on which to encourage the protection of minorities in potential new member-states' (Galbreath 2005: 230). Nevertheless, the Amsterdam Treaty did contain a 'Race Equality Directive' which mandated the prevention of ethnic or racial discrimination. The directive did not come into force until 2003. Perhaps more importantly, the status of national minorities became increasingly important in the accession process which began in 1997 at the Intergovernmental Conference in Amsterdam which begot *Agenda 2000*.<sup>6</sup> With the Amsterdam Treaty, the European Commission listed most countries that could formally become candidates for membership, although all of the prospective member-states had started their accession process much earlier. The list included the likely suspects: the Czech Republic, Slovakia, Hungary, Poland, Slovenia and Estonia.

*Agenda 2000* not only set in motion the process of accession for those formally confirmed as candidates but also for others waiting in the wings. For proof we have the European Commission's Regular Reports which covered each prospective member state. The Regular Reports were mandated by *Agenda 2000* as a way of monitoring a country's commitment to membership, using the Copenhagen Criteria as a basis. A review of the Regular Reports (1998) illustrates the European Commission's continued focus on the status of national minorities. The rather complex case of Slovakia is a useful example of the Commission's leverage. In 1998, the Regular Report on Slovakia stated:

There has been no progress on the adoption of minority language legislation and no significant change in the protection of minorities.

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<sup>5</sup> <http://europa.eu.int/comm/enlargement/intro/criteria.htm> (Date accessed: 26 August 2005).

<sup>6</sup> The accession process was again refined the following year at the Luxembourg European Council.

In spite of the commitments made to the EU and the OSCE High Commissioner for National Minorities and in spite of the Constitutional Court ruling of August 1997, which states that the non-existence of a law regulating the use of minorities' languages is at variance with the Slovak Constitution, no significant progress has been made on this matter.

The European Commission was particularly concerned about the use of minority languages in the public sphere. This concern related to the Slovak government's 'titularisation' of the educational system, even though a controversial language law had been defeated in the Slovak Parliament. By the 1999 Regular Report, the Slovak government had made 'significant progress' in the minority rights area. The Report noted:

A Deputy Prime Minister for Human Rights, National Minorities and Regional Development who belongs to the Hungarian Coalition Party was appointed. Parliament established a Committee for Human Rights and National Minorities, including a commission for Roma issues. A Government Council for National and Ethnic Minorities, which has representatives of all the minorities, has been restructured as an advisory body to Government. Minorities units have also been created within the Ministries of Culture and Education and within the Office of Government.

Despite remaining difficulties for the Roma community in Slovakia, policies towards other minorities greatly improved after 1999. Faced with a demanding European Commission on one side and an 'external national homeland', (e.g. Hungary), Slovakia was eventually induced to provide greater protection for national minorities.

There is evidence to be sceptical of how far the EU was willing to go to enforce minority protection in the candidate countries. James Hughes and Gwendolyn Sasse find that the European Commission's attempts at monitoring events in Central and Eastern Europe contained many problems. They argue that 'the Reports do not systematically assess the structure and operation of institutional frameworks or policies for dealing with minority groups' (2003: 16). Yet a look at the Regular Reports shows that they consistently highlight the key issues and progress (or lack of progress) made by the candidate country. The excerpts taken from the Regular

Reports on Slovakia (1999) illustrate this point. Second, Hughes and Sasse find that the Regular Reports do not show transparency in how the European Commission came to their decisions. Hughes and Sasse are correct to point out that we should not assume that the information used to substantiate the conclusions for each country is the same. Furthermore, they are correct to highlight the varying standards by which the European Commission used to evaluate each country. Conversely, the role of national minorities in the various candidate countries was/is not the same and we should not expect the European Commission to see Poles in Lithuania in the same way as Turks in Bulgaria or Ruthenians in Hungary. Nevertheless, possibly there is something to the claim that the Regular Reports were not meant to stall the enlargement process. Yet this is hard to substantiate since all of the candidate countries for the 2004 enlargement did make progress in their protection of national minorities, even in cases where the states refused to recognise these groups as 'national minorities' such as in Estonia and Latvia. Finally, we see that the Regular Reports for the current candidate countries have the potential to delay enlargement such as in the Western Balkans and Turkey. Although the EU could arguably have done more to support minority protection, the organization nevertheless deserves some credit, especially given the unwillingness of some existing members to engage with their own minority issues.

### *Nannies*

We have seen that no other organization has the same transformative power as the EU. Or at least, arguably, this was the case in the accession period. During the enlargement phase, the EU sought to replicate the Council of Europe by constructing a quasi-legal framework to influence societal relations. Here, we say 'quasi-legal' simply because the EU itself often, as stated, relied on norms set out by the OSCE, Council of Europe, and even at times the United Nations. Beyond a general reference to the protection of minorities in the Copenhagen Criteria, the EU had far fewer mechanisms by which to engage societal security. In this way, we can see that the EU went no further than the OSCE and its 'deconstructivist' approach or the Council of Europe and its 'constructivist' approach, which goes along way to supporting the arguments of Hughes and Sasse (2003) and more recently Galbreath and McEvoy (2010)

At the same time, we should expect some change following enlargement. Now that interethnic tensions exist within the EU not just on its border, surely we should see a change in the Union's ability to engage with minorities. The answer is yes and no. Yes, the EU has been keen to make more robust its institutions responsible for human rights, such as the Fundamental Rights Agency, but this institution, like the Council of Europe, was established to protect the rights of individual citizens of Europe. Not ethnic groups. Where individuals of a minority are not allowed to vote or take public office, the Agency and even the European Court of Justice may become involved, although the European Court of Human Rights is more likely to hear the case. No, that as seen the EU still does not have a minority *acquis*, or a legal basis with which to deal with minorities either in terms of group protection or empowerment. The clearest institution in the EU for this was traditionally DG Enlargement, but this means less now that many of the relevant states are beyond accession.

So where does this leave the EU? Perhaps in a different place than the OSCE or Council of Europe despite its lack of legal rigour. In contrast, the EU has far greater potential to employ the 'reconstructivist' approach to desecuritization. The narrative of regional integration is the key in that the project of 'Europe' is an alternative logic that the zero-sum game can be positively transformed into a positive-sum game, as long as the perceptions of benefit and belonging are distributed as a relative gain at different political and societal levels. For instance, Romanians and Hungarians are part of a larger European 'civilization'. Such a commonality could be the focus of a reconstructed narrative that ties in both groups (incidentally as it has). Furthermore, given the distributive nature of the EU as a multi-level governing organization, the EU has the greatest potential to push for empowerment over protection and move societal security from 'emergency' to 'normal' politics.

## **Conclusion**

Following the end of the Cold War, Europe was once again faced with a resurgence in the securitization of societal identities in the form of ethnic politics and its more virulent conflict. European organizations sought to reduce these tensions to promote security, democracy, and European integration. Each of the three organizations has approached societal security differently, determined by its 'narrative, norms and nannies'. The security narrative is best illustrated within the OSCE because it is the

one institution which has an explicit security agenda. In particular we can see this in how the HCNM has sought to desecuritize minority rights. This approach has sought to deconstruct the conflict by promoting nation-building and societal integration. The result is a failure to transform interethnic relations.

Likewise, the Council of Europe has focused on the narrative of democracy and human rights in Central and Eastern Europe and its connection to minority rights. We illustrate how the Council of Europe focuses on minority rights in two ways. The first is the rights-based approach that carries forward the link between human rights and minority rights. The second way is the Council of Europe's struggle to reinforce democratic institutions to ensure that minority rights are protected. The Council of Europe has employed a 'constructivist' approach to societal security by attempting to protect minorities through a legal framework. Again, the result has been a failure to transform interethnic relations in Central and Eastern Europe.

Finally, we see how European integration has shaped minority rights. Critics of the EU's power of conditionality or socialisation point to its weakness to influence policies on the ground in the area of minority rights. We argue that this was especially the case in the enlargement period where the EU employed a similar 'constructivist' approach as the Council of Europe. More importantly, we argue that the implications of this research and elsewhere (Galbreath and McEvoy 2012), the EU has the ability to reconstruct a mutually applicable narrative to societal security that can allow for a transformation in interethnic relations.

In conclusion, we find that to date, European organizations are unable to transform interethnic relations, which probably tells us less about Slovakia or Latvia today, but more about the future of prospects in Kosovo or Georgia. These findings supports the limitations of the desecuritization of societal security set out by Huysmans and Roe. At the same time, the implications of Jutila's 'reconstructivist' approach suggest that the EU has the ability to improve its transformative power. All of this is to suggest that international organizations have the ability to provide transformative solutions to societal security.



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